

| LUXEMBOURG* | | | |
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| COMPETITION FRAMEWORK | | | |
| Competition Law | The Act of 23 October 2011 on competition ("Competition Act") entered into force on February 1, 2012. | | |
| Competition Authority | The Competition Council ("Conseil de la Concurrence"), created by the Law of 17 May 2004, started functioning on October 29, 2004. Website: http://www.concurrence.public.lu/ | | |
| STATUS OF THE COMPETITION AUTHORITY | | | |
| Accountability | | | |
| Does the Competition Authority have obligations before the executive? | Yes | X | Obligations to report to the executive on on-going investigations upon request. |
| | | X | The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch. |
| | | √ | The Competition Authority has to report on an annual basis to the executive. |
| Other obligations/comments: The Competition Council might start an investigation upon a minister's request. | | | |
| Does the Competition Authority have obligations before the legislature? | Yes | √ | Obligation to publish an annual report on its activities. |
| | | X | Obligation to stand before parliament and to respond to congressmen on an annual basis. |
| | | X | Its activities are monitored by an independent auditor or by oversight committees. |
| Does the Competition Authority have obligations before the judiciary? | No | √ | Decisions of the Competition Authority are subject to judicial review. |
| | | Other obligations/comments: Decisions might be appealed to an Administrative Tribunal. <i>See</i> Competition Act, article 28. | |
| Independence | | | |
| Are the criteria for appointment and removal of the head/board members clear and transparent? | Yes | <i>See</i> Competition Act, article 7(2). | |
| Does the executive have powers to decide on specific cases based on public interest? | No | | |
| Does the executive retain decision-making powers over the Competition Authority? | No | | |
| Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency? | No | They do publish the decisions on the website, but it is not an obligation stated in the Law. The Competition Council includes in its annual report the most important decisions. <i>See</i> Competition Act, article 7(5). | |
| Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning? | Yes | Article 7(6) of the Competition Act states that the budget for the operation of the Competition Council is included in the budget of the Ministry of Economy. | |
| Can the Competition Authority be financed by its own means (notification fees, fines, etc.)? | No | <i>See</i> Competition Act, article 20. | |
| GOVERNANCE OF THE COMPETITION AUTHORITY | | | |
| Is the Competition Authority governed by a single chairman or by a collegiate body? | Chairman | Four staff advisors compose the Council, including a chairperson, three members and five alternates advisors. All of them, including the chairman, are chosen independently by the Grand Duke. | |
| Does a minister appoint the heads? | Yes | <i>See</i> Competition Act, article 7(2). | |
| Do representatives of more than one government branch appoint the heads? | No | | |
| Is there a fixed period during which removal is prohibited? | Yes | <i>See</i> Competition Act, article 7(2). | |
| Is the tenure of the heads renewable? | Yes | <i>See</i> Competition Act, article 7(2). | |
| Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)? | Yes | <i>See</i> Competition Act, article 7(2). | |
| ARCHITECTURE | | | |
| Is the Competition Authority a stand-alone agency with an independent physical location or is it part of a bigger entity such as a minister? | Stand-alone agency | <i>See</i> Competition Act, article 6(1). | |
| POLICY-MAKING AGENTS -DIVERSIFICATION- | | | |
| How many agencies are responsible for competition enforcement? | One agency. | | |

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| Do sector regulators have competition policy enforcement mandate? | No | | |
| Have the Competition Authority and other agencies signed protocols or memoranda of understanding? | Telecommunications Regulator | No | |
| | Energy Regulator | No | |
| | Transport Regulator | No | |
| | Other | According to article 19 of the Competition Act, the Competition Council might request to any sector regulator the information necessary for an investigation. | |
| POLICY DUTIES | | | |
| Does the Competition Authority have exclusive mandate on competition or multiple mandates? | Exclusive competition mandate | X | Concurrent consumer protection mandate. |
| | | X | Concurrent IP mandate. |
| | | Other mandates: Non. | |
| PORTFOLIO INSTRUMENTS | | | |
| Law Enforcement | | | |
| Does the Competition Authority have powers to investigate cartels? | Yes | See Competition Act, article 6(5). | |
| Does the Competition Authority have powers to conduct dawn raids at premises? | Yes | See Competition Act, article 16. | |
| Can the Competition Authority investigate <i>ex officio</i> cases? | Yes | See Competition Act, article 6 (5)(a). | |
| Does the Competition Authority have powers to accept leniency applications? | Yes | See Competition Act, article 21. | |
| Does the Competition Authority have powers to seek criminal punishment? | No | | |
| Advocacy | | | |
| Can the Competition Authority issue opinions on draft legislation? | Yes | See Competition Act, article 6 (5)(b). The opinions are not binding. | |
| Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition? | Yes | See Competition Act, article 29. | |
| Rulemaking | | | |
| Can the Competition Authority issue guidelines or other type of secondary legislation? | No | X | Guidelines on the calculation of fines. |
| | | X | Guidelines on merger control. |
| | | X | Guidelines on the economic analysis of abuse of dominance cases. |
| Research & Reporting | | | |
| Can the Competition Authority carry out market studies? | Yes | See Competition Act, article 6 (5)(c). | |
| Can the Competition Authority report to the legislature on the results of market studies? | Yes | They can publish the results. | |
| DECISION-MAKING FUNCTIONS | | | |
| Aggregated Functions | | | |
| Does the Competition Authority make the decision to investigate and to prosecute cases? | Yes | | |
| Does the Competition Authority make guilty findings? | Yes | | |
| Does the Competition Authority impose punishments? | Yes | | |
| Is there a single body that carries out the investigation and the guilty findings within the Competition Authority? | Yes | See Competition Act, article 9. There are Investigators chosen by the Council, but they act under the supervision of a Council member. | |
| Can the Competition Authority's decisions be appealed to a court? | Yes | | |
| Disaggregated Functions—Prosecutorial Model | | | |
| Are there different authorities that make the decision to investigate and to prosecute cases? | No | | |
| Are disputes presented for decision to a separate entity/tribunal? | No | | |
| * Data based on public source. | | | |